

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

IN RE:) Case No.: 18-00526-5-JNC
MICKEY L. FAISON)
TONYA FAISON,)
Debtors.) Chapter 13

MICKEY L. FAISON)
TONYA FAISON,)
Plaintiffs,)
v.)
LUNDQUIST CONSULTING, LLC) Adv. Proc. No.: 18-00087-5-JNC
13/7, LLC,)
Defendants.)

**MOTION FOR APPROVAL OF SETTLEMENT
OF ADVERSARY PROCEEDING**

NOW COME plaintiffs and defendants, by and through counsel, and the Chapter 13 Trustee and hereby move this Court for an Order approving the settlement of the above-captioned adversary proceeding pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure. In support of such motion, the plaintiffs show as follows:

1. The plaintiffs are the debtors in the above-captioned bankruptcy case and the debtors filed for bankruptcy protection under chapter 13 on February 5, 2018.

2. In the underlying bankruptcy case, defendant Lundquist Consulting, LLC (hereinafter "Lundquist") filed a proof of claim on behalf of 13/7, LLC (hereinafter "13/7") alleging that the debtors were indebted to 13/7 in the amount of \$346.00. *See Claim #7.*

3. On March 26, 2018, plaintiffs-debtors filed an objection to the proof of claim #7 alleging, *inter alia* that the claim was a payday loan that was illegal in North Carolina and that the claim was barred by the applicable statute of limitations.

4. On May 2, 2018, this Court entered an order sustaining the plaintiffs' objection and disallowed the claim filed by Lundquist and 13/7 because the claim was for an illegal payday loan and void *ab initio* and because the claim was barred by the statute of limitations.

5. On August 20, 2018, this Court allowed counsel for plaintiff's request for additional attorney's fees for objecting to the proof of claim filed by Lundquist and 13/7.

6. On August 13, 2018, the plaintiffs filed the instant adversary proceeding against both Lundquist and 13/7 for violations of the Fair Debt Collections Practices Act (15 U.S.C. § 1692 *et seq.*) and the North Carolina Prohibited Practices by Collection Agencies (Article 70, Chapter 58 of the General Statutes).

7. Defendants Lundquist and 13/7 were both served with process and neither has filed an answer or other responsive pleadings in this matter but have elected to resolve this matter through settlement as follows:

- a) defendants will pay a total of \$8,150.00 to resolve this matter allocated as follows and subject to the approval of this Court;
 - i) \$1,000.00 to be paid to plaintiff Mickey Faison as statutory damages authorized under 15 U.S.C. § 1692k;
 - ii) \$1,000.00 to be paid to plaintiff Tonya Faison as statutory damages authorized under 15 U.S.C. § 1692k;
 - iii) \$150.00 to be paid to plaintiffs as reimbursement for the attorney's fees incurred in objecting to the proof of claim filed by Lundquist and 13/7;
 - iv) \$6,000.00 to be paid to Lapas Law Offices, PLLC as attorney's fees as authorized under 15 U.S.C. § 1692k;
 - v) the sums set forth above shall be submitted to plaintiffs' counsel's law office for disbursement through counsel's trust account within ten (10) days of entry of this Order Approving Settlement;
 - vi) upon receipt of the settlement funds, plaintiffs will dismiss the above-captioned adversary proceeding with prejudice; and

vii) this Court shall retain jurisdiction over this matter to enter any necessary orders to effectuate this settlement.

8. The Chapter 13 Trustee has no objection to the settlement of this matter or to the disbursement of the settlement funds as set forth in Paragraph 7 of this Motion.

9. By the signatures below, the signatories acknowledge that they represent the parties stated herein and that the parties are properly before this Court and this Court has jurisdiction over both the subject matter and the parties thereto.

WHEREFORE, the parties and the Chapter 13 Trustee move this Court for the following relief:

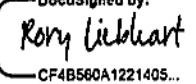
1. That this Court approve the settlement of this matter as set forth herein;
2. That the disbursements of the sums to the plaintiffs and to plaintiffs' counsel be approved as set forth herein; and
3. For such other and further relief as this Court deems just and proper.

This the ^{10th} day of December, 2018.

FOR PLAINTIFFS:

s/ Adrian M. Lapas
Adrian M. Lapas
Attorney for Plaintiffs
Post Office Box 10688
Goldsboro, NC 27532
Telephone: (919) 583-5400

FOR DEFENDANTS:

DocuSigned by:

Rory Liebhart
CF4B560A1221405...

Rory Liebhart
Managing Director
Lunquist Consulting LLC
111 Anza Blvd, Suite 310
Burlingame, CA 94010

Facsimile: (919) 882-1777
N.C. State Bar No.: 20022

Telephone: (206)910-3892

FOR TRUSTEE:

Joseph A. Bledsoe, III

Joseph A. Bledsoe, III
Chapter 13 Trustee

A. Michelle Boney
3740 NC 11 South
Warsaw, NC 28466

Future Financial Services, LLC
Attn: Managing Agent
102 N. Front Street
Warsaw, NC 28398

New Southern Loans
Attn: Managing Agent
2405 Nash Street, NW
Wilson, NC 27894

Ann's Sew and Vac
Attn: Managing Agent
360 Faison Highway
Clinton, NC 28328

Internal Revenue Service
Attn: Managing Agent
Post Office Box 7346
Philadelphia, PA 19101-7346

North Carolina Department of Revenue
Attn: Managing Agent
Post Office Box 871
Raleigh, NC 27602

Capital One Bank (USA), NA
Attn: Managing Agent
Post Office Box 30285
Salt Lake City, UT 84130

Lendmark Financial
Attn: Managing Agent
2118 Usher Street
Covington, GA 30014

One Main Financial
Attn: Managing Agent
Post Office Box 183172
Columbus, OH 43218-3172

Century Finance
Attn: Managing Agent
908 N. Spence Avenue
Goldsboro, NC 27534

Lendmark Financial
Attn: Managing Agent
511 N. Spence Avenue
Goldsboro, NC 27534

One Main Financial
Attn: Managing Agent
1405 S. Pollack Street
Selma, NC 27576

Core Realty Holdings
Attn: Managing Agent
6400 Old Oak Ridge Road
Greensboro, NC 27410

Mariner Finance
Attn: Managing Agent
8211 Town Center Drive
Nottingham, MD 21236

Spot Loan
Attn: Managing Agent
Post Office Box 927
Palatine, IL 60078

Credit Control Service
Attn: Managing Agent
725 Canton Street
Norwood, MA 02062

Mariner Finance, LLC
Attn: Managing Agent
332 N. Spence Avenue
Goldsboro, NC 27534

State Employees Credit Union
Attn: Managing Agent
Post Office Box 25279
Raleigh, NC 27611

Credit One Bank
Attn: Managing Agent
Post Office Box 98873
Las Vegas, NV 89193-8873

Max Lend
Attn: Managing Agent
Post Office Box 639
Parshall, ND 58770

The Progressive Corporation
Attn: Managing Agent
6300 Wilson Mills Road
Mayfield Village, OH 44143

Discover Bank
Attn: Managing Agent
502 E. Market Street
Greenwood, DE 19950

N.C. Dept. of Revenue
Office Services Unit/Managing Agent
Bankruptcy Unit
Post Office Box 1168
Raleigh, NC 27602

Time Warner Cable
Attn: Managing Agent
3347 Platt Spring Road
West Columbia, SC 39170

Enhanced Recovery Collections
Attn: Managing Agent
8014 Bayberry Road
Jacksonville, FL 32256

Navient
Attn: Managing Agent
Post Office Box 9500
Wilkes-Barre, PA 18773

U.S. Dept. of Education
Attn: Managing Agent
BK Student Loans
400 Maryland Avenue, SW
Washington, D.C. 20202

Ford Motor Credit Acceptance
Attn: Managing Agent
1 American Road
Dearborn, MI 48126

NC Child Support Enforcement Agency
Attn: Managing Agent
Post Office Box 20800
Raleigh, NC 27619

Vanderbilt Mortgage & Finance
Attn: Managing Agent
Post Office Box 9800
Maryville, TN 37802

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13/7, LLC,)
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NOTICE OF MOTION AND
CERTIFICATE OF SERVICE

Debtors have filed papers with the court seeking MOTION TO APPROVE SETTLEMENT.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one, in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you want the court to consider your view on the debtors' MOTION TO APPROVE SETTLEMENT, then on or before January 3, 2019, you or your attorney must file a written request for a hearing or written response at

Clerk of U.S. Bankruptcy Court
Post Office Box 791
Raleigh, NC 27602

If you mail your response to the court for filing, you must mail it early enough so that the court will receive it or before the date stated above.

You must also mail a copy of your response and/or request for hearing to debtor's attorney at:

Lapas Law Offices, PLLC
Post Office Box 46
Goldsboro, NC 27533

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

This the 10th day of December, 2018.

LAPAS LAW OFFICES, PLLC

By: s/Adrian M. Lapas
Adrian M. Lapas
Attorney for Debtor(s)
Post Office Box 10688
Goldsboro, NC 27532
Telephone: (919) 583-5400
Facsimile: (919) 882-1777
N.C. State Bar No.: 20022

CERTIFICATE OF SERVICE

I, Adrian M. Lapas, do hereby certify that at all times relevant herein, I am more than eighteen (18) years of age and that I served the attached MOTION TO APPROVE SETTLEMENT on the following by, unless an alternative method is specified below, depositing a copy hereof, first-class postage prepaid, in the United States mail, addressed to the attorney for each said party as follows:

Mr. Joseph A. Bledsoe, III
Chapter 13 Trustee
(Via CM/ECF)

Lundquist Consulting, LLC
13/7, LLC
c/o Mr. Rory Liebhard
111 Anza Boulevard, Ste. 310
Burlingame, CA 94010

Ms. Mary Anne Foglia
Counsel, Verisk Analytics, Inc.
545 Washington Boulevard
Jersey City, NJ 07310
(Via email)

Creditors on attached Creditors' Matrix

This the 10th day of December, 2018.

LAPAS LAW OFFICES, PLLC

By: s/Adrian M. Lapas
Adrian M. Lapas
Attorney for Debtor